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इस भाग में भिन्न पृष्ठ संख्या वी जाती है जिससे यिक यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed
as a separate compilation

LOK SABHA

The following Report of the Joint Committee on the Bill to provide for the prevention, control and abatement of air pollution, for the establishment, with a view to carrying out the aforesaid purpose, of Boards for the prevention and control of air pollution, for conferring on and assigning to such Boards powers and functions relating thereto and for matters connected therewith was presented to Lok Sabha on the 18th May, 1979:—

COMPOSITION OF THE COMMITTEE

Dr. Karan Singh—Chairman

MEMBERS

Lok Sabha

2. Shri P. Anbalagan
3. Shri Manoranjan Bhakta
4. Shri Dinesh Joardar
5. Shri B. P. Kadam
6. Shrimati Parvathi Krishnan
7. Shri M. V. Krishnappa
8. Shri B. P. Mandal
9. Shri Jagdish Prasad Mathur
10. Shri R. K. Mhalgi

11. Shri Govind Ram Miri
12. Shri Nathuni Ram
13. Shri Gananath Pradhan
14. Shri R. N. Rakesh
15. Shri Ram Kinkar
16. Shri Ram Murthi
17. Shri Vasant Sathe
18. Shri Chiman Bhai H. Shukla
19. Shri A. Sunna Sahib
20. Shri Sikandar Bakht

Rajya Sabha

21. Shri A. R. Antulay
22. Prof. Sourendra Bhattacharjee
23. Shri Dharamchand Jain
24. Shri Ghayoor Ali Khan
25. Shri Piare Lall Kureel *urf.* Piare Lall Talib.
26. Shri Lakshmana Mahapatro
27. Shri Prem Manohar
28. Shri Ajit Kumar Sharma
29. Shri Triloki Singh
30. Dr. Rafiq Zakaria

SECRETARIAT

Shri Y. Sahai, *Chief Legislative Committee officer.*

LEGISLATIVE COUNSEL

1. Shrimati Rama Devi, *Joint Secretary and Legislative Counsel.*
2. Shri Jagdishwar Narain, *Asstt. Legislative Counsel.*
3. Shri Padi Kani, *Attache.*

REPRESENTATIVES OF THE MINISTRY OF WORKS AND HOUSING

1. Shri Mir Nasrullah, *Joint Secretary, Ministry of Works and Housing.*
2. Dr. Nilay Chaudhuri, *Chairman, Central Board for Prevention and Control of Water Pollution.*
3. Shri B. V. Rotkar, *Member Secretary, Central Board for Prevention and Control of Water Pollution.*
4. Shri S. T. Khare, *Adviser (PHEE) CPHEEO.*
5. Shri P. S. A. Sundaram, *Deputy Secretary, Ministry of Works and Housing.*
6. Shri J. N. Kalia, *Under Secretary, Ministry of Works and Housing.*

REPRESENTATIVE OF THE DEPARTMENT OF SCIENCE AND TECHNOLOGY

Shri D. K. Biswas, *Principal Scientific Officer.*

REPORT OF THE JOINT COMMITTEE ON THE AIR (PREVENTION AND CONTROL OF POLLUTION) BILL, 1978.

I, the Chairman of the Joint Committee to which the Bill* to provide for the prevention, Control and abatement of air pollution, for the establishment, with a view to carrying out the aforesaid purpose, of Boards for the prevention and control of air pollution for conferring on and assigning to such Boards powers and functions relating thereto and for matters connected therewith, was referred, having been authorised to submit the Report on their behalf, present their Report, with the Bill, as amended by the Committee, annexed thereto.*

2. The Bill was introduced in the Lok Sabha on the 17th April, 1978. The motion for reference of the Bill to a Joint Committee of the Houses was moved in Lok Sabha by Shri Sikander Bakht, the Minister of Works and Housing and Supply and Rehabilitation on the 25th July, 1978 and was adopted.

3. The Rajya Sabha concurred in the said motion on the 2nd August, 1978.

4. The message from Rajya Sabha was reported to Lok Sabha on the 4th August, 1978.

5. The Committee held 13 sittings in all.

6. The first sitting of the Committee was held on the 30th August, 1978 to draw up their programme of work. The Committee decided to invite written memoranda from the State Governments, Union Territory Administrations, International Agencies, Industries, Labour Organisations, Municipal Corporations, Universities and Scientific Laboratories connected with the research in environment and pollution, State Boards for Prevention and Control of Water Pollution and other Organisations and individual experts interested in the subject matter of the proposed legislation by the 23rd September, 1978 for their consideration. The Committee also decided to issue a Press Communiqué in this behalf and to address letters to all the State Governments/Union Territory Administrations and other organisations etc. inviting their views and suggestions on the provisions of the Bill. The Committee at their sitting held on the 30th September, 1978 extended the time for submission of memoranda upto the 20th October, 1978.

7. 86 Memoranda containing views/comments/suggestions on the provisions of the Bill were received by the Committee from various experts, Organisations and individuals etc.

8. The Committee at their sitting held on the 30th August, 1978 further decided to undertake on-the-spot study visits to various places throughout the country with a view to acquaint themselves with the problems of air pollution.

*Published in the Gazette of India, Extraordinary, Part II Section 2, dated the 17th April, 1978.

The Committee in the first lap of their study tour undertook on-the-spot study visits—(i) in and around Delhi on the afternoon of 30th September, 1978; and (ii) Mathura Refinery and The Taj Mahal at Agra on the 1st October, 1978 and also held informal discussions with the authorities concerned.

The following three study groups formed by the Committee at their sitting held on the 30th August, 1978 visited different places in the country from the 13th to 17th October, 1978 and held informal discussions with the officials of the State Governments and the representatives of various organisations:

| | |
|--------------------|---|
| Study Group 'A' .. | Bombay, Goa, Baroda and Ahmedabad. |
| Study Group 'B' .. | Kanpur, Dhanbad, Bokaro and Gauhati. |
| Study Group 'C' .. | Cochin, Coimbatore, Madras and Bangalore. |

The Committee also visited Vallabhai Patel Chest Institute (University of Delhi) on the 9th November, 1978 and held informal discussions with the Director and other professors of the Institute on the subject of air pollution and chest diseases.

As per their decision taken at their sitting held on the 8th November, 1978, the Committee permitted Study Group 'B' to undertake on-the-spot study visit to Calcutta on the 15th and 16th November, 1978 which they could not visit earlier due to unprecedented floods in West Bengal. The Study Group also held informal discussions with the authorities concerned and the officials of the State Government.

9. At their sitting held on the 2nd January, 1979, the Committee decided to take oral evidence on the provisions of the Bill and selected various experts, scientists, environmentalists etc. for the purpose.

10. At their sittings held from 1st to 3rd February, 1979, the Committee heard oral evidence tendered by various experts, scientists, environmentalists, etc.

11. The Report of the Committee was to be presented by the 24th November, 1978. The Committee were granted two extensions of time—the first extension was granted on the 22nd November, 1978, upto the last day of the first week of the Budget Session, 1979 i.e. the 23rd February, 1979 and the second extension was granted on the 21st February, 1979 upto the last day of the Budget Session, 1979.

12. At their sitting held on the 2nd April, 1979 the Committee decided that (i) the evidence tendered before the Committee might be laid on the Table of the both Houses of Parliament and (ii) two copies each of the memoranda received by the Committee might be placed in the Parliament Library, after the Report has been presented for reference by the Members of Parliament.

13. The Committee considered the Bill, clause-by-clause at their sittings held from 2nd to 4th April and on the 2nd and 3rd May, 1979.

14. The Committee considered and adopted the Report at their sitting held on the 15th May, 1979.

15. The observations of the Committee with regard to the principal changes proposed in the Bill are detailed in the succeeding paragraphs.

16. *Clause 2.*—The Committee have made amendments to the definitions of certain terms given in this clause as explained below:—

(i) 'air pollutant'.—The Committee were informed that air pollutants, when scrubbed from the affected places, also pollute the water which may prove injurious to other living creatures *viz.*, fishes. The Committee are of the view that the term should be defined more elaborately so as to include all living creatures which are likely to be affected by the air pollutants.

Item (a) of this clause has been amended accordingly.

(ii) 'approved appliance'.—The Committee note that the appliances used in certain chemical processes for generating or consuming fume gas or particulate matter are not covered by the existing definition. The Committee feel that since such Chemical processes are likely to cause air pollution, the appliances used in such processes should also be brought within the purview of the proposed definition.

Item (c) of this clause has been amended accordingly.

17. *Clause 5.*—The Committee have made certain amendments in this clause and have also made a general recommendation on the nomination of a whole time Chairman of the State Board for the Prevention and Control of Air Pollution as explained below:—

(i) The Committee note that the representation of the workers, who are mainly the victims of air pollution created inside the factories or industrial undertakings, has not been taken into account in the constitution of a State Board for the Prevention and Control of Air Pollution. The Committee feel that the State Government, while nominating the non-officials representing various interests to the said Board, should also consider the nomination of workers representatives representing the interests of the labour in the State.

Item (d) of sub-clause (2) of this clause has been amended accordingly.

(ii) The Committee are of the opinion that in order to ensure effective implementation of the proposed legislation which is of a technical nature and to achieve the desired results, a State Board to be constituted for the Prevention and Control of Air Pollution under the proposed legislation should also consist of technical experts on the subject as its members. The Committee feel that it should, therefore, be made incumbent on the State Government to nominate at least two members having special knowledge or practical experience in respect of matters relating to the improvement of the quality of air or the prevention, control or abatement of air pollution to the said Board.

A proviso has been added accordingly to sub-clause (2) of this clause.

(iii) The Committee note that under the provisions proposed in the clause, in the States, where the Water (Prevention and Control of Pollution) Act, 1974 is not in force or that the State Boards have not been constituted under the provisions of that Act, the State Governments have been given discretionary powers to nominate either a whole-time or a part-time Chairman of the State Board to be constituted for the Prevention and Control of Air Pollution.

The Committee were informed that, in view of the financial implications involved in the appointment of a whole-time Chairman, which the small States may find it difficult to provide for as well as the lack of qualified experts in this field, a mandatory provision for a whole-time Chairman may cause difficulty. The Committee are, however, of the opinion that for the successful implementation of the provisions of the proposed Bill, a whole-time Chairman of the Board would be desirable. The Committee are, therefore, of the view that Government might consider the desirability of impressing upon such State Governments that as far as possible a whole-time Chairman might be nominated.

18. Clause 7.—(i) Clause 7 primarily deals with the terms and conditions of service of the Members of the Board and sub-clause (2) of clause (8) deals with the disqualifications for nomination of a Member of the Board. The Committee are of the opinion that it is not desirable to treat the removal of a member from the membership of the Board as one of the terms and conditions of their service and further in order to avoid any ambiguity, the provisions relating to removal of the members from the membership of the Board might more appropriately be brought within the provisions of clause 8 of the Bill.

Sub-clause (3) of clause 7 has, therefore, been omitted and sub-clause (2) of clause 8 has been amended accordingly.

(ii) The Committee feel that the additional terms and conditions of service of the Chairman and members other than the member-Secretary of a State Board for the Prevention and Control of Air Pollution may be provided for in one sub-clause instead of in two.

Hence original sub-clauses (8) and (9) of this clause have been amalgamated and re-numbered as sub-clause (7).

19. Clause 8.—(i) The Committee are of the view that a person, who has suspended payment of his debts or has compounded with his creditors, obviously for good reasons need not be disqualified from being nominated as a member of a State Board for the Prevention and Control of Air Pollution constituted under the proposed legislation.

Item (a) of sub-clause (1) of this clause has been amended accordingly.

(ii) The Committee are of the view that in order to ensure that the decisions of such a Board are not influenced one way or the other, a person who has directly or indirectly any interest in any firm or company dealing with the equipment or apparatus used for the improvement of the quality of air or the control of air pollution etc. should be disqualified from being nominated as a member of the Board.

Similarly a person, who is employed in any capacity in any firm or company having any contractual obligations, with such a Board or with a State Government concerned or the local authority in the State or with any Government undertaking, for carrying out the programmes for the improvement of the quality of air or control of air pollution should also be debarred from being nominated as a member of the Board.

New items (e) and (f) have been added accordingly to sub-clause (l) of this clause.

(iii) Amendment made in sub-clause (2) of this clause is of a consequential nature.

20. *Clause 10.*—The Committee are of the opinion that in order to ensure that the Central Board for the Prevention and Control of Air Pollution and the State Governments concerned are kept informed of the working of the State Boards at regular intervals, it should be made obligatory on the part of the State Boards concerned to send copies of the minutes of their meetings to the Central Board and the State Government concerned.

A new sub-clause (2) has been added accordingly and consequently clause 10 has been re-numbered as sub-clause (1) thereof.

21. *Clause 11.*—The Committee note that under sub-clause (i) of this clause, the Board has been empowered to constitute Committees including Committees consisting of wholly of other persons also for certain purposes that might be assigned to them by the Board. The Committee feel that constitution of Committees wholly of other persons without adequate representation of the members of the Board is not desirable as such Committees would not be able to appreciate the implications of the problems or the jobs that might be entrusted to them.

Sub-clause (l) of this clause has, therefore, been amended accordingly.

22. *Clause 14.*—The Committee feel that a State Board to be constituted under the proposed legislation might also require the services of consultants from time to time for the formulation or execution of its projects or schemes. The Committee are, therefore, of the opinion that the State Board should, on the lines of provisions contained in Section 12(4) of the Water (Prevention and Control of Pollution) Act, 1974, be empowered to appoint qualified persons as consultants for the purpose on such terms and conditions as might be considered necessary.

A new sub-clause (5) has been added accordingly to this clause.

23. *Clause 15.*—The Committee are of the opinion that for the efficient functioning of the State Boards and to ensure proper implementation of the provisions of the proposed legislation, these Boards should also be authorised to delegate powers to other officers of the Board, besides Chairman and member-secretary.

The clause has been amended accordingly.

24. *Clause 17.*—(i) The Committee are of the view that in order to ensure that timely steps are taken for the prevention, control and abatement of air pollution in the air pollution control areas, it should be made

obligatory on the part of the State Boards to inspect such areas and assess the quality of air therein at regular intervals.

New item (f) has been added accordingly to sub-clause (1) of this clause and existing items (g) to (i) have been re-numbered as items (g) to (j).

(ii) The amendment made in original item (g) [now re-numbered as item (h)] of sub-clause (1) of this clause is of a clarificatory nature.

25. *Clause 19.*—(i) The Committee are of the opinion that it might be left to the State Government concerned to declare, after consultation with the State Board, any area within the State as air pollution control area in the manner as it might consider necessary as it is a matter of detail.

Sub-clause (1) of this clause has been amended and sub-clause (2) thereof has been omitted and other sub-clauses have been renumbered accordingly.

(ii) The Committee note that under the proposed provisions of this clause, the State Government has been empowered to do certain acts enumerated therein. The Committee are of the opinion that the State Board to be constituted for the Prevention and Control of Air Pollution, having technical expertise under their control, should invariably be consulted by the State Government while exercising its powers under this clause.

Original sub-clauses (4), (5) and (6) [renumbered as clauses (3), (4) and (5)] of this clause have been amended accordingly.

26. *Clause 21.*—(i) The amendment made in the proviso to sub-clause (2) of this clause is consequent upon the amendment made in sub-clause (4) thereof.

(ii) The Committee note that sub-clause (4) of this clause provides that if the State Board does not refuse to grant the consent or upon refusal, does not communicate the refusal to the applicant within four months after the receipt of application for consent of the State Board for the operation of any industrial plant for the purpose of any industry in an air pollution control area, the consent applied for would be presumed to have been granted. The Committee feel that it would be more desirable to cast a duty on the Board to take a final decision either to grant consent or to refuse to grant the same on the application and communicate the said decision to the applicant within a period of four months positively.

Sub-clause (4) of this clause has been amended accordingly.

(iii) The Committee note that under items (i) and (iv) of sub-clause (5) of this clause, it is stipulated that specifications for control equipment and chimney will be given by the State Board. The Committee feel that in actual practice at times it may be difficult for the Board to stipulate the specifications. In such a contingency, the Committee apprehend, the industries may take it as an excuse and may not instal any equipment at all. Taking this into consideration, the Committee are of the opinion that responsibility should better be fixed on the industry to find out the appropriate control equipment needed to keep down the emission at the prescribed level and obtain prior approval of the Board before installation to ensure that it meets the requirements.

Items (i) and (iv) of sub-clause (5) of this clause have been amended accordingly.

(iv) The Committee also feel that in view of the nature of the problem of air pollution and the fact that the present legislation is proposed to be enacted for the first time, the Board may come across situations which may not strictly be dealt with under the prescribed conditions. The Committee are, therefore, of the opinion that there should be a provision enabling the Board to impose any other condition on the industries while granting consent, as may be considered necessary.

Item (v) has been added accordingly to sub-clause (5) of this clause and original item (v) has been renumbered as item (vi).

(v) The other amendments made in this clause are of a consequential nature.

27. *Clause 23.*—(i) The Committee feel that the State Board and the authorities or the agencies should, if it comes to their notice that in any of the air pollution control areas the emission of any air pollutant into the atmosphere is occurring in excess of the standards laid down or there is an apprehension of such occurrence, *suo moto* also take necessary remedial measures to mitigate the emission of such air pollutants.

Sub-clause (2) of this clause has been amended accordingly.

(ii) The Committee note that the State Board and the authorities or the agencies, as may be prescribed, are required to take remedial measures to mitigate the emission of such air pollutants into the atmosphere which are reported or apprehended to be in excess of the standards laid down. The Committee are of the opinion that the State Board, authorities or the agencies should be given powers to recover the expenditure incurred in taking such remedial measures from the industry concerned.

New sub-clause (3) has been added to this clause accordingly.

28. *Clause 24.*—The Committee are of the opinion that in order to ensure that the persons, authorised by the State Board to enter and inspect any place, discharge their functions, entrusted by the Board under the provisions of the proposed legislation, efficiently and without any hindrance, should also possess the powers of search and seizure similar to those contained in the Code of Criminal Procedure, 1973.

New sub-clause (4) has been added to this clause accordingly.

29. *Clause 25.*—The amendment made in this clause is of a clarificatory nature.

30. *Clause 26.*—(i) The Committee were informed that the provisions made in this clause regarding division of air samples into two parts and been drafted on the lines of the provisions contained in section 21 of the Water (Prevention and Control of Pollution) Act, 1974. Subsequently, the Committee were further informed, the matter was discussed with various technical experts who had expressed their apprehension about the division of air samples. They had stated that there were lot of technical limitations in dividing an air sample. They had further stated that taking of successive samples or taking different samples or taking different samples under identical conditions were also not technically fool-proof. Taking into consideration the above difficulties, the Com-

Committee have come to the conclusion that only one sample might be taken for law evidencing purpose which need not be divided into two parts.

Item (b) of sub-clause (3) of this clause has been amended accordingly.

(ii) As a result of the amendment suggested above, the other amendments made in this clause are either of a consequential or of a clarificatory nature.

31. *Clause 27.*—The amendments made in this clause are of a consequential nature.

32. *Clause 28.*—The Committee note that the existing clause provides for establishing or specifying only one State Air Laboratory. The Committee were informed that both testing and analysis of the air samples have to be done quickly after the samples are taken, as otherwise delay in transportation or due to any other cause, would deteriorate the sample and the very purpose of testing the sample would be defeated. This being so, the Committee feel, it would not be possible for a single laboratory at the State level, howsoever well-equipped it may be, to tackle the problem effectively. The Committee are, therefore, of the opinion that more than one State Air Laboratory would be necessary to achieve the objectives.

Sub-clause (1) of this clause has been amended accordingly.

33. *Clauses 32 and 33.*—The Committee were informed that relevant sections of the Water (Prevention and Control of Pollution) Act, 1974 had since been amended and the provisions made in proviso to clause 32 and sub-clause (3) of clause 33 might be brought in line with those provisions.

Proviso to clause 32 and sub-clause (3) of clause 33 have, therefore, been amended accordingly.

34. *Clause 35.*—The amendments made in sub-clauses (1) and (2) of this clause are of a verbal nature.

35. *Clause 37.*—The Committee are of the opinion that as the air pollutants have detrimental effect on the health of the people as also on animal life, vegetation and property, the objectives of the proposed legislation viz., prevention, control and abatement of such air pollutants are not likely to be achieved unless the penalties for contravention of the directions or orders issued under the provisions of the proposed legislation are deterrent. The Committee also feel that fear of imprisonment on failure to comply with such orders or directions would further ensure effective implementation of the provisions of the proposed Bill.

Sub-clause (1) of this clause has been amended accordingly.

36. *Clause 38.*—The amendments made in this clause are of a consequential and verbal nature.

37. *Clause 40.*—The amendment made in this clause is of a clarificatory nature.

38. *Clause 41.*—The Committee note that although the head of the Department has been made liable for punishment for the offence committed by the concerned Department of Government but in case the said

Head of the Department proves his innocence, there is apparently nobody else on whom the responsibility could be fixed. The Committee are of the opinion that when an offence has been committed, responsibility should invariably be fixed on some other officer of the Department with whose consent or connivance or negligence the offence might have been committed.

New sub-clause (2) has been added accordingly to this clause and clause 41 has been renumbered as sub-clause (1) thereof.

39. *Clause 47.*—The Committee note that the State Government have been given powers to supersede a State Board for the persistent default in the performance of its functions or otherwise in public interest for a period of one year. The Committee feel that the period of supersession for one year is too long and would go against the effective implementation of the proposed legislation. Hence they are of the opinion that the period of supersession should not exceed six months particularly when the period of supersession can be extended by the State Government for another six months.

Sub-clause (1) of this clause has been amended accordingly.

40. *Clause 50.*—The Committee feel that in order to ensure that the Parliament is kept informed about the changes that might be made in the schedule to the proposed Bill, every notification made by the Central Government in that behalf should be laid before each House of Parliament.

New Sub-clause (2) has been added to this clause accordingly and clause 50 has been renumbered as sub-clause (1) thereof.

41. *Clauses 53 and 54.*—The amendments made in these clauses are of a formal and consequential nature.

42. *The Schedule.*—The Committee are of the opinion that Asbestos Ginning, Pulp and Paper industries are also a major source of atmospheric pollution and should be brought within the purview of the proposed Bill.

The Schedule of the Bill has been amended accordingly.

43. *Clause 1.*—The amendment made in this clause is of a formal nature.

44. *Enacting Formula.*—The amendment made in the Enacting Formula is of a formal nature.

45. The Joint Committee recommend that the Bill, as amended, be passed.

GENERAL RECOMMENDATIONS

The Joint Committee, with a view to acquaint themselves with various aspects of the problem of air pollution which is steadily growing as a result of increasing industrialisation and other factors, and to ascertain the nature of the steps that are necessary for the preservation of the quality of air and the control of air pollution as envisaged in the proposed legislation, undertook study visits to various places throughout the country. During the course of these study tours the Committee had informal discussions with the authorities concerned as well as the officials of the State Government and those responsible for the implementation of the Water (Prevention and Control of Pollution) Act, 1974 who are expected to perform the additional functions regarding air pollution under the provisions of the proposed legislation. The Committee also had the privilege of hearing the views of various scientists, environmentalists and other experts on the subject.

2. The Committee note that although rapid urbanisation, heavy industrialisation and economic and technological developments during the last few decades have brought substantial benefits to millions of citizens, these benefits have come about at the cost of a deterioration in the physical environment of the country. The Committee also note that the problem of air pollution has assumed added importance in recent years throughout the world due to various factors, particularly rapid industrialisation, deforestation, increasing traffic, heating, domestic fuels, garbage, refuse incineration, smoking and so on. Noise pollution is also becoming a serious problem, and all this is having a detrimental effect not only on the health of human beings but also on various forms of animal life, vegetation, property and monuments. The Committee further note that lack of general awareness of the problem in the country; dearth of technically trained personnel and insufficient finance due to low priority given to the machinery responsible for implementation of the existing provisions of the Water (Prevention and Control of Pollution) Act, 1974 are factors contributing to the gravity of the situation in India.

3. The Committee, after examining the provisions of the proposed legislation, feel that the proposed provisions of the Bill are insufficient to tackle the problem of air pollution in its entirety. The Committee realize that to suggest comprehensive changes would go beyond the scope of the present Bill. But considering the importance and urgency of the subject matter, and keeping in view the long-range welfare of our citizens, the Committee have decided to make certain general recommendations for consideration of the Government apart from specific suggestions regarding the present legislation. These recommendations are as follows:

1. Environmental Education:

The Committee were informed that the engineers who were coming out of our technical institutions were not adequately exposed to the concepts of environment. As a result, the persons involved in the designing of various industrial projects were not fully appreciative of the fact that

the effluents could so considerable damage to the environment. Also, there was an insufficient awareness of environmental values in the general educational system. The Committee are aware that while environmental education is a new science, it is assuming growing importance and the country will increasingly need expertise at various levels. The Committee feel that the educational system in the country needs to be enriched by introducing environmental values at various levels.

The Committee are happy to note that at least in one State, Maharashtra, initiatives in this direction have been taken and the subject of Environment has been introduced there at various levels of the educational system. In view of the dangers involved, and in the interests of the future generations, the Committee are of the opinion that Government might consider the desirability of impressing upon the State Governments to introduce in their respective educational systems the subject of environment in the general education in the school classes; as an optional subject at under-graduate level; specialisation at the post-graduate level; and Environmental Engineering in technical education. Education being a State subject, the Government might chalk out a policy on the subject in consultation with the experts in the field for the guidance of the State Governments with a view to formulate their syllabi. It should also become an integral part of the proposed new education policy.

2. *Development of Air Pollution Laboratories:*

The Committee note that under the proposed legislation there is provision for the establishment of State Air Laboratories. The Committee were informed that both collection of samples of air pollutants and their analysis has to be done in the region, and in the case of some air pollutants where concentration is very low or which are degradable, this can only be measured on the spot. This being so, it would not be possible for a single laboratory at the State level, however well-equipped it may be, to tackle the problem effectively. The Committee were also informed that at present technically trained staff in the field of air pollution are not readily available. The Committee are of the opinion that in order to ensure proper enforcement and effective implementation of the proposed Bill, it would be necessary, in addition to setting up new Laboratories, to consider the feasibility of availing of existing facilities which are available in the country, such as—

- (i) *For training purposes:* The School of Environmental Sciences, Jawahar Lal Nehru University; Vithalbhai Patel Chest Institute, Delhi University; National Environmental and Engineering Institute, Nagpur; National Institute of Occupational Health, Ahmedabad; Labour Institute, Bombay; and Indian Institute of Science, Bangalore.
- (ii) *For air pollution control work:* National Environmental and Engineering Institute, Nagpur; National Institute of Occupational Health, Ahmedabad and Labour Institute, Bombay; and
- (iii) *For air pollution laboratories:* Regional Engineering Colleges and the five Indian Institutes of Technology and Indian Institute of Science, Bangalore in addition to the Laboratories attached to the existing Water (Prevention and Control of Pollution) Boards.

The Committee were informed that Air Pollution Laboratories could also be established by providing supplementary grants to the various Medical Research Institutes and Medical Colleges in the country. This also needs to be examined.

3. Problems in the Implementation of the Provisions of the Water (Prevention and Control of Pollution) Act, 1974.

During the course of informal discussions with official responsible for the implementation of the provisions of the Water (Prevention and Control of Pollution) Act, 1974, the Committee were informed that they were faced with various problems in effectively enforcing and implementing the Act. There was lack of technical competence and the Departments were not always adequately qualified to give proper advice to certain types of industries as the technical wings in the Departments were very limited. They were also finding it difficult to implement the provisions of the Act particularly in the smaller industries who could not afford to install costly machines and equipment needed for controlling air pollutants, which, by and large, are not available in the country.

The Committee strongly feel that mere creation of an agency for the prevention and control of any aspect of environmental pollution by enacting legislation will prove to be an exercise in futility unless due priority is given to creation of adequate administrative machinery and expertise for the efficient implementation of the enactments. The Committee are, therefore, of the opinion that in order to ensure proper enforcement and efficient implementation of the proposed legislation, Government might consider the desirability of taking the following urgent steps:

- (i) Arrangements for long-term and short-term training programmes for technical personnel;
- (ii) Strengthening of the departments concerned by providing adequate funds for their proper functioning;
- (iii) Arrangements for the import and distribution of equipment and machinery for monitoring air pollutants till such time as these are indigenously available;
- (iv) Arranging for adequate research and development activities in the country so that we can rapidly become self-sufficient in this field;
- (v) Laying down of guidelines by way of fixing some time-limits within which the existing industries should be asked to comply with the provisions of the Act; and
- (vi) Creation of a fund for providing subsidy/assistance to the smaller industries for installation of necessary equipment/machinery for pollution control. As an incentive some rebate in the cess or taxes to the industries might also be given.

The Committee are fully aware that in a developing country like India, which has embarked on a massive programme of industrialization, over rigid and unrealistic anti pollution measures are neither feasible nor conducive to the economic development of the country. The programme of combating environmental pollution needs to be executed in a carefully phased manner so that on the one hand the growth of industries,

so vital for the development of the country, is not unduly hampered and on the other the pollutants which cause detrimental effects are adequately controlled. The Committee feel that building up of a national consciousness in this direction through a massive, multi-media public education campaign would help in achieving the objectives of this legislation. The common citizen must be made aware of environmental values so that he can intelligently co-operate with the implementation authorities in the broader social interest.

4. *Noise Pollution :*

The Committee were informed that noise created from various sources such as industries, motor vehicles, aeroplanes, amplifiers and other gadgets, often constitutes a hazard to public health. Noise inside factories, in some cases, can cause irreversible deafness constitute a health hazard to industrial workers. As noise is transmitted through the air, there is a view that noise should be considered as a potential air pollutant similar to particulate matter or sulphur dioxide and, therefore, should be brought within the provisions of the proposed Bill.

The other school of thinking reflected in the findings of the expert Committee constituted by the Ministry of Works and Housing to consider whether the measures to control noise pollution could be brought within the purview of the proposed legislation is that the effect of noise pollution is only physical and not chemical as in the case of air pollutants. Noise, according to them does not change the nature and composition of air. It is transitory, is carried through the air and dies out quickly as soon as the source of noise emission is stopped. It is, no doubt, an instant nuisance but has seldom any long term effect on the ambient air and, therefore, need not be equated with the common air pollutants.

From the legal point of view, the Committee were informed that the scope of noise pollution is very wide. Whatever be the source of noise pollution, it invariably results in nuisance hazardous to public health. A law for the prevention and control of noise pollution would more appropriately come under the subject of "Public health and sanitation" dealt within Entry 6 of the State List. The expression "public health" is of wide amplitude covering all types of nuisances detrimental to public health and well-being. A law on the prevention and control of noise pollution, therefore, in so far as it relates to public health, can be enacted only by the State Legislatures. Parliament, however, would also be competent to enact such a law by following the procedure laid down in Article 252 of the Constitution.

The Committee are aware that in the modern world there is an ever increasing demand for the goods and services which flow from today's advanced technology. Whereas on the one hand modern technology gives comforts to the people, the same technology often creates discomforts detrimental to public health. The scientific advances in the various fields of technology specially industries, transport and other sound-producing machineries, have greatly increased the level of background noise to which the people are exposed, particularly those who live and work in the crowded urban areas. The Committee also note that in the present decade there is ever growing public concern about noise.

The Committee feel that since the problem of noise pollution in the country is increasing, it would be appropriate and desirable if steps are taken to control it through a Central Act. The Committee are, therefore, of the opinion that Government might consider the desirability of enacting suitable legislation through a Central Act for the control of noise pollution in the country.

5. Comprehensive Legislation and Creation of a Coordinating machinery:

During the course of their deliberations, the Committee were informed that there were several drawbacks and organisational difficulties in the working of the existing Water (Prevention and Control of Pollution) Act, 1974. Although the Act has been in operation for more than four years, there were some States in the country where Water Pollution Control Boards had not been set up so far and even in the States where the Boards had been set up they were not always functioning effectively. As a result there has been little progress in achieving the desired results.

The Committee, after examining in depth the various aspects of environmental pollution, are of the opinion that in order to have uniformity of approach towards environmental pollution control measures throughout the country and to ensure strict enforcement, the Government might consider the feasibility of enacting a comprehensive legislation so as to provide for the control of all forms of environmental pollution. From the legal point of view also, the Committee were informed that it would be within the competence of Parliament to enact such a comprehensive legislation for the prevention of environmental pollution covering water, air and noise in accordance with the provisions of Article 252 of the Constitution.

The Committee are also of the view that as in the case of the United States of America where there is a single Environmental Protection Agency at the Central level having various specialities represented in it, the Government might consider setting up a Ministry or Department of Environment at the Centre which would have the administrative control and provide coordination between different Boards *viz.*, Water Pollution Control Board, Air Pollution Control Board and the Noise Pollution Control Board. The National Committee for Environmental Planning and Co-ordination should also be activated so that it can play a central role in the approach to environmental problems at the regional and national level in close co-ordination with Planning Commission; which should take its advice on environmental aspects.

The Committee are further of the opinion that in order to avoid duplication and overlapping in the working of various Boards, some kind of a strategem providing for common facilities such as laboratories, technical expertise and training programmes for technical personnel might be adopted.

6. Implementation of Anti-cigarette Smoking Legislation:

The ill-effects of air pollution so far as it concerns human health is mainly on the respiratory passages and the lungs. Air polluted with organic and inorganic dusts and gases like sulphur-dioxide, when inhaled, damages the lungs and acts as an irritant and an inflammatory agent. Those who smoke are particularly susceptible to this effect, as smoking has a malign synergism with other forms of pollution. The Committee

were informed that cigarette smoking was a dangerous habit which can lead to grave health hazards. Constant smoking can lead to chronic bronchitis, peptic ulcers, stomach upsets, coronary heart diseases, hypertension and lung cancer. Studies based on a world-wide survey of continuing medical research, the Committee were further informed, indicate that cigarette smoking can treble the risk of coronary heart diseases. Smoking by women causes special concern. A pregnant woman who smokes as many as ten cigarettes a day has a significantly greater chance of losing her baby, either before it is born or in the first four weeks of infancy, than a non-smoking mother. If the child survives, it has a significantly greater chance in his early school years of being behind his class-mates in reading ability and social adjustment than the children of non-smoking mother.

The Committee are aware that the Government have taken certain steps against cigarette smoking by enacting "The Cigarettes (Regulation of Production, Supply and Distribution) Act, 1975, but are deeply concerned to note that the enactment has not been effective in curbing the habit of cigarette smoking, as the market is always flooded with different brands of cigarettes obviously to meet the every increasing demand, and there are always advertisements in various newspapers, magazines and films with glamorous messages to attract and induce young persons to smoking.

The Committee are of the opinion that unless some further effective steps are taken in this direction, there are practically no chances of curbing the habit of cigarette smoking and reducing the consumptions of cigarettes by simply printing a health warning on the cigarette packets under the provisions of the existing enactment. Even adding a sign or a pictorial representation to the written text of the warning on cigarette packets, which is reported to be under consideration of the cigarette manufacturers association, would not help in achieving the desired results.

The Committee, therefore, strongly feel that in the context of so many dangers effecting human health involved in cigarette smoking, the Government, in order to curb the habit of smoking, might consider the feasibility of taking further steps such as:

- (i) Statutory reduction of nicotine contents in tobacco;
- (ii) Complete ban on glamorous messages or pictorial representations for promoting cigarettes;
- (iii) Mass publicity campaign on the hazards of smoking through all available means;
- (iv) Industrial establishments to be compelled to educate their workers on the hazards of smoking;
- (v) Inclusion of a chapter of smoking and its ill-effects on health in the text books of education at all levels; and
- (vi) Complete ban on smoking in all closed areas and other places of public utility services.

7. Mathura refinery and the Raj Mahal:

In order to appreciate the implications of the proposed Bill, the Committee, while undertaking study visits to various places of the country, paid a special visit to the Refinery under construction at Mathura and the Taj Mahal at Agra with a view to study the existing impact of air pollutants on this world famous monument and the likely effects of the air pollutants to be discharged from the Refinery. The Committee are aware that the controversy raised on the likely effects of air pollutants to be discharged from the Refinery on the Taj Mahal does not strictly fall within the scope of the proposed Bill. However, as the matter has aroused a good deal of public interest in India and abroad, and concerns a precious aspect of our rich cultural heritage, the Commission could not help taking cognisance of this problem in view of the nature of the proposed legislation under their consideration.

The Committee were informed that an Expert Committee under the Chairmanship of Dr. S. Varadarajan, which was constituted in July, 1974 by the Ministry of Petroleum and Chemicals primarily to advise the project authorities on the measures to be taken, for keeping the pollution effect to the absolute minimum, had *inter alia* observed:

- (i) There is substantial level of pollution of sulphur dioxide and particulate matter in the Agra region particularly near Agra Fort and the Taj Mahal. The possible sources of pollution were all coal users, consisting of two power plants, industries including about 250 foundries and railway shunting yard using 1100 tonnes, 2000 to 3000 tonnes and 40 to 50 tonnes of coal daily respectively;
- (ii) As per estimates of Indian Oil Corporation, the total amount of sulphur dioxide would be limited to one tonne per hour;
- (iii) As per estimates based on dispersal studies made by the Indian Meteorological Department and the investigations conducted by M/s. Techneco (an Italian Firm) and the National Environmental Engineering Research Institute, the contribution from the Refinery to the long term concentration of sulphur dioxide at Agra would be of the order of one to two micrograms per cubic metre compared to the existing level of 15 to 20 micrograms per cubic metre. Short term (one hour) peak concentration of the order of 65 micrograms per cubic metre could be expected under worst meteorological conditions in winter;
- (iv) Effective steps need to be taken quickly to reduce the existing level of pollution in Agra; and
- (v) It will be necessary to ensure that the actual long term contribution to the sulphur dioxide level at Agra as a result of the Refinery is not more than 2 micrograms per cubic metre.

The Expert Committee, expressing its deep concern for the preservation of the priceless monuments in Agra particularly the Taj Mahal, made several recommendations for consideration of the Government for expeditious implementation with a view to reduce the existing level of pollution substantially and forestall creation of any future sources of

pollution. It had also specifically stated that there was urgent need for continuous study and investigations to ensure prevention of monuments from exposure to further threats from pollutants or any other cause.

The Committee were also informed that as per Report of M/s. Techneco, decay in both marble and sand-stone had already set in. The Report of the Expert Committee, it was reported, was also examined by Dr. G. Torraca, Assistant Director, International Centre for the Study of Preservation and Restoration of cultural Property, Rome and he had categorically stated that even one per cent risk is far too high for an object like the Taj Mahal.

The Committee also had the advantage of hearing the views of other experts on the subject. The Committee were informed that the Reports of the Indian Meteorological Department and Techneco were based on insufficient data and that the Expert Committee was not composed of experts in this line. Apart from this, these bodies considered the impact only of sulphur dioxide on the monuments from a distance and ignored the potential impact of other pollutants to be emitted by the Refinery such as Oxides of Carbon and nitrogen, dusts, particulates and the products of inter-action which would discolour and disfigure the Taj Mahal and other monuments.

When the findings of the Techneco Report was questioned by Dr. G. Torraca, the Committee were informed, the Techneco Experts were also reported to have admitted that no one could give a categorical assurance regarding the protection of monuments as the quantitative relationships between pollution and deterioration levels are still unknown and theoretically any increase in air pollution even at one microgram per cubic metre is not good for the conservation of stone. The Committee were further informed that the Expert Committee had ignored the effects of the disposal of toxic wastes in water (even after treatment) which will move down the Yamuna to Agra. According to a survey conducted by NEERI, the Committee were told, the waters of the Yamuna were already polluted and the additional load of pollution from the Refinery and its multiplier effects will render the chlorinated drinking water of Agra sufficiently poisonous to affect man and his progeny.

The Committee were also informed that in the West Several treasures of art and architecture have been destroyed due to exposure to air pollutants. For instance, the marvellous marble temple of the Acropolis in Athens, which withstood the wrath of nature for 2400 years has been seriously affected during the last 30 years due to sulphur dioxide, corrosive gasses and black smoke from increased levels of vehicular traffic, urbanisation and industrial development near Athens. Similarly Cleopatra's needle, shifted from Egypt to New York, has deteriorated more in the past 70 years than in the previous 3500 years. Inspite of the Americans' abiding interest in conservation, and utilisation of advances made in air pollution control technology, even the marble of the Lincoln Memorial in Washington is reported to be fast deteriorating due to attack by acids of polluted air.

The Committee realize that experts on such subjects often do not agree with each other. But after taking all the evidence produced before them into account, the Committee have no doubt at all that the construction

of the Mathura Refinery would add an unacceptably high level of pollution to the atmosphere of Agra and thus pose a clear threat to the Taj Mahal, probably the most famous and beautiful single monument in the world, which is made of white marble peculiarly susceptible to sulphur dioxide. The Committee feel that once the Refinery is set up it must be expected to function for at least 150 or 200 years and in case the views of the pessimistic experts turn out to be right and we fail to conserve the cultural heritage that we hold in trust for all man-kind we would have a very heavy debt of guilt to posterity.

The Committee have themselves seen that some of the structures of the Refinery have already been constructed and more are under construction. On the question of expenditure incurred so far, the Committee were informed that about Rs. 100 crores—Rs. 15 crores on acquisition of land, civil works etc. and about Rs. 85 crores on items of equipment—have been spent. The Committee are of the view that in case the site of the Refinery is shifted elsewhere not too far away from Mathura, the structures already constructed can be used for storage, transport, and distribution requirements so that they are not completely wasted and most of the equipment can also be shifted and put in use at the new site. Although this would result in some infructuous expenditure, it should be kept in mind that apart from its cultural and artistic value, the Taj Mahal is a major tourist attraction and helps to earn crores of rupees in foreign exchange every year through international tourism. The Committee are of the view that the Taj Mahal can recoup the entire cost of the Refinery in a few years from tourism earnings, but this would be possible only when its radiant beauty, which is dependant upon the smoothness and reflectivity of its gleaming white surface, is maintained and preserved.

The Committee, after examining the matter carefully and weighing the pros and cons, have come to the conclusion that Mathura is one of the worst possible sites for setting up of a Refinery from the Archaeological, ecological and environmental points of view. The Committee are of the opinion that in order to save the Taj Mahal and other monuments in Agra and Braj Mandal from the ill-effects of air pollutants from the Refinery, the Government, apart from taking urgent and effective steps for prevention of existing air pollutants from other sources in Agra as per recommendations of the Expert Committee, should also look into the Refinery problem afresh and examine the feasibility of shifting at least the most polluting units of the Refinery to the Etawah Region. The Committee are also of the opinion that the treated liquid effluents, which are likely to poison the already polluted drinking water of the Agra region, should, if possible, be conveyed through a pipeline and discharged into the river at a suitable point down-stream of Agra or Etawah to protect the drinking water supply.

8. Delegation of powers to the Archaeological Survey of India for Protection of Monuments:

During the course of their deliberations on the proposed legislation, the Committee had discussions with the officials concerned on the role of the Archaeological Survey of India who were primarily responsible for the upkeep and maintenance of the monuments. When questioned about the steps taken by the A.S.I. to protect the Taj Mahal and other historical

monuments from the hazards of pollution from various sources, the Committee were informed that the authorities concerned had become apprehensive on the decision of the Government to set up the Refinery at Mathura because of the possible adverse effects of the gaseous effluents from the stacks of the proposed Refinery on the Agra monuments, particularly the Taj Mahal. As a consequence the Archaeological Survey of India approached the National Environmental Engineering Research Institute, Nagpur, to carry out a survey of the present air quality around the monuments in Agra. The result of the investigation carried out indicated that there was substantial amount of pollution both of sulphur-dioxide and particulate matter in the Agra region, particularly near the Agra Fort and the Taj Mahal, on account of the two power plants, the industries including about 250 foundries and the railway shunting yard. The authorities concerned had accordingly requested the Government of Uttar Pradesh to take steps to remove the contributory factors of pollution from the Power Plants and the foundries. Similarly, the Railway Board had been requested to replace the present coal-based locomotives with diesel-based ones at the marshalling yard. On their part, the Committee were informed, the Archaeological Survey of India had themselves taken samples of the affected parts of the monuments at Agra and Delhi and had found that sulphur-dioxide was acting adversely on the marble.

When the Expert Committee under the Chairmanship of Dr. S. Varadarajan, was constituted to advise the Government on the environmental impact of the Mathura Refinery on the monuments in Agra region, the Committee were informed that representative of the Archaeological Survey of India was also invited to participate in their deliberations and that he had made it clear that they would not like the Refinery to be located at Mathura from the Archaeological point of view. The authorities further stated that under the present Act viz., the Archaeological sites and Archaeological Remains Act, 1958, they did not possess the power to stop any industry being set up. They had only limited powers under the Act to declare certain areas close to the site of the monument as prohibited so that mining or quarrying operations or any such activities which could damage the protected site, might be stopped.

The Committee are of the view that in order to ensure that monuments of national importance are properly protected and preserved, Government might consider the desirability of amending the present Act with a view to arm the A.S.I. with necessary powers so that a no-objection certificate would have to be obtained from them before any industrial development near about such monuments took place.

9. *Indraprastha Thermal Power House, Delhi:*

The National Environmental Engineering Research Institute (NEERI) in their survey undertaken in 1968-69 had indicated that pollutants like sulphur-dioxide, hydrogen sulphite and dust were present in significant quantities in certain areas of Delhi. The major source of air pollution in Delhi is the Indraprastha Thermal Power Station located in the heart of the city. During visits in and around Delhi to study the problem of air pollution, the Committee were informed that low grade coal with ash contents of about 30 per cent was used in the Indraprastha Power Station. When all the units were in service about 3500 tonnes of coal

was burnt per day and as a result about 1,000 tonnes of ash was produced. Of the ash 90 per cent to 95 per cent was arrested inside the plant and about 5 to 10 per cent escaped through the chimneys. The main equipment utilised for catching the ash were Mechanical Dust Collectors and Electrostatic Precipitators (EPS). The present Electrostatic Precipitators installed at the Power Station were designed during the period when the effect of low sulphur content in coal or electrostatic fluid was unknown to the leading manufacturers in the West. As a result, the precipitators designed in early sixties were unstable and undersized for boilers using low sulphur/high ash coal from the Jharia, Dhanbad coal belt.

In an effort to fight this pollution problem Central Electrical Authority and the Ministry of Energy got these precipitators examined by several Western experts who were of the unanimous opinion that without major modifications|additions the performance of the existing dust collecting equipment could not be improved further. In pursuance of this endeavour the Ministry of Energy set up a 5-Member Experts Committee with Dr. H. S. Sharan, Director (Engineering) BHEL as Chairman in 1976 to examine and advise on measures for reducing the air pollution from the Indraprastha Power Station. This Committee also came to the conclusion that the Dust Collecting equipment of all the units should be modified and new electrostatic precipitators should either be added to or replace the existing ones. The Committee also recommended that regulatory orders be issued that DESU should be supplied only with low ash coal (not containing more than 25 per cent of ash) for burning in the boilers of Indraprastha Power Station. In actual practice, however, there was not much improvement in the supply of such coal.

As to the measures taken by DESU for implementation of these recommendations, the Committee were informed that an order for two electrostatic precipitators at a cost of Rs. 113 lakhs had been placed with BHEL. When the project was successfully commissioned, the level of dust emission would hopefully be reduced from present 3000 to 4000 milligrams per cubic metre of the outgoing flue gas to less than 150 milligrams per normal cubic metre. With regard to the Units 2 and 3, the proposal for modification of existing electrostatic precipitators, addition of new fields and providing gas conditioning equipment had been approved by the Ministry of Energy. This scheme estimated to cost about Rs. 200 lakhs, when implemented would reduce the level of dust emission from 1500 to 2500 milligrams of ash per cubic metre of the outgoing flue gas to less than 150 milligrams per normal cubic metre. The award for work for modification of units 4 and 5 would be based on the comparative performance of the new electrostatic precipitators for Unit No. 1 and that of the equipments under consideration of Units 2 and 3.

The Committee were unhappy to note the long drawn out process adopted by the authorities concerned in the implementation of the recommendations made by the Experts Committee for reducing air pollution for Indraprastha Power Station. The piecemeal work of modification|replacement of electrostatic precipitators in the various units of the Power Station also indicated that the concerned authorities had not given due importance to the problem, which affected the health and well-being of the human beings in Delhi and constituted a major element of

ugly and unhealthy pollution in one of the most beautiful capitals of the world.

The Committee therefore, strongly recommend that immediate steps be taken with regard to the modification/replacement of existing electrostatic precipitators so that the people of Delhi can be saved from the health hazard emanating from the Indraprastha Power Station. The Committee are also of the opinion that if at any time in the future there is a proposal for constructing a new Power Station for Delhi the Government may ensure that it is located outside the city limits far away from the thickly populated localities.

NEW DELHI;
May 15, 1979
Vaishakha 25, 1901 (S).

(DR.) KARAN SINGH,
Chairman,
Joint Committee.

THE AIR (PREVENTION AND CONTROL OF POLLUTION) BILL, 1978

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THE AIR (PREVENTION AND CONTROL OF POLLUTION) BILL, 1978

(AS REPORTED BY THE JOINT COMMITTEE)

[Words side-lined or underlined indicate the amendments suggested by the Committee; asterisks indicate omissions.]

A**BILL**

to provide for the prevention, control and abatement of air pollution, for the establishment, with a view to carrying out the aforesaid purpose, of Boards for the prevention and control of air pollution, for conferring on and assigning to such Boards powers and functions relating thereto and for matters connected therewith.

WHEREAS decisions were taken at the United Nations Conference on the Human Environment held in Stockholm in June, 1972, in which India participated, to take appropriate steps for the preservation of the natural resources of the earth which, among other things, include the preservation of the quality of air and control of air pollution;

AND WHEREAS it is considered necessary to implement the decisions aforesaid in so far as they relate to the preservation of the quality of air and control of air pollution;

Be it enacted by Parliament in the Thirtieth Year of the Republic of India as follows:—

CHAPTER I**PRELIMINARY**

1. (1) This Act may be called the Air (Prevention and Control of Pollution) Act, 1979.

Short title,
extent
and
commen-
cement.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

(a) "air pollutant" means any solid, liquid or gaseous substance present in the atmosphere in such concentration as may be or tend to be injurious to human beings or other living creatures or plants or property or environment;

(b) "air pollution" means the presence in the atmosphere of any air pollutant;

(c) "approved appliance" means any equipment or gadget used for the burning of any combustible material or for generating or consuming any fume, gas or particulate matter and approved by the State Board for the purposes of this Act;

(d) "approved fuel" means any fuel approved by the State Board for the purposes of this Act;

(e) "automobile" means any vehicle powered either by internal combustion engine or by any method of generating power to drive such vehicle by burning fuel;

(f) "Board" means the Central Board or a State Board;

(g) "Central Board" means the Central Board for the Prevention and Control of Water Pollution constituted under section 3 of the Water (Prevention and Control of Pollution) Act, 1974;

(h) "chimney" includes any structure with an opening or outlet from or through which any air pollutant may be emitted;

(i) "control equipment" means any apparatus, device, equipment or system to control the quality and manner of emission of any air pollutant and includes any device used for securing the efficient operation of any industrial plant;

(j) "emission" means any solid or liquid or gaseous substance coming out of any chimney, duct or flue or any other outlet;

(k) "industrial plant" means any plant used for any industrial or trade purposes and emitting any air pollutant into the atmosphere;

(l) "member" means a member of the Central Board or a State Board, as the case may be, and includes the Chairman thereof;

(m) "occupier", in relation to any factory or premises, means the person who has control over the affairs of the factory or the premises and where the said affairs are entrusted to a managing agent, such agent shall be deemed to be the occupier of the factory or the premises;

(n) "prescribed" means prescribed by rules made under this Act by the Central Government or, as the case may be, the State Government;

(o) "State Board" means,—

(i) in relation to a State in which the Water (Prevention and Control of Pollution) Act, 1974, is in force and the State Government has constituted for that State a State Board for

the Prevention and Control of Water Pollution under section 4 of that Act, the said State Board; and

(ii) in relation to any other State, the State Board for the Prevention and Control of Air Pollution constituted by the State Government under section 5 of this Act.

CHAPTER II

CENTRAL AND STATE BOARDS FOR THE PREVENTION AND CONTROL OF AIR POLLUTION

3. The Central Board for the Prevention and Control of Water Pollution constituted under section 3 of the Water (Prevention and Control of Pollution) Act, 1974, shall, without prejudice to the exercise and performance of its powers and functions under that Act, exercise the powers and perform the functions of the Central Board for the Prevention and Control of Air Pollution under this Act.

Central Board for the Prevention and Control of Air Pollution.

4. In any State in which the Water (Prevention and Control of Pollution) Act, 1974, is in force and the State Government has constituted for that State a State Board for the Prevention and Control of Water Pollution under section 4 of that Act, such State Board shall be deemed to be the State Board for the Prevention and Control of Air Pollution constituted under section 5 of this Act and accordingly that State Board for the Prevention and Control of Water Pollution shall, without prejudice to the exercise and performance of its powers and functions under that Act, exercise the powers and perform the functions of the State Board for the Prevention and Control of Air Pollution under this Act.

State Boards for the Prevention and Control of Water Pollution to be State Boards for the Prevention and Control of Air Pollution.

5. (1) In any State in which the Water (Prevention and Control of Pollution) Act, 1974, is not in force, or that Act is in force but the State Government has not constituted a State Board for the Prevention and Control of Water Pollution under that Act, the State Government shall, with effect from such date as it may, by notification in the Official Gazette, appoint, constitute a State Board for the Prevention and Control of Air Pollution under such name as may be specified in the notification, to exercise the powers conferred on, and perform the functions assigned to, that Board under this Act.

Constitution of State Boards.

(2) A State Board constituted under this Act shall consist of the following members, namely:—

(a) a Chairman, being a person having special knowledge or practical experience in respect of matters relating to environmental protection, to be nominated by the State Government:

Provided that the Chairman may be either whole-time or part-time as the State Government may think fit;

(b) such number of officials, not exceeding five, as the State Government may think fit, to be nominated by the State Government to represent that Government;

(c) such number of persons, not exceeding five, as the State Government may think fit, to be nominated by the State Govern-

ment from amongst the members of the local authorities functioning within the State;

(d) such number of non-officials, not exceeding three, as the State Government may think fit, to be nominated by the State Government to represent the interests of agriculture, fishery or industry or trade or labour or any other interest, which, in the opinion of that Government, ought to be represented;

(e) two persons to represent the companies or corporations owned, controlled or managed by the State Government, to be nominated by that Government;

(f) a full-time member-secretary having practical experience in respect of matters relating to environmental protection and having administrative experience, to be appointed by the State Government;

Provided that the State Government shall ensure that not less than two of the members are persons having special knowledge or practical experience in respect of matters relating to the improvement of the quality of air or the prevention, control or abatement of air pollution.

(3) Every State Board constituted under this Act, shall be a body corporate with the name specified by the State Government in the notification issued under sub-section (1), having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire and dispose of property and to contract, and may by the said name sue or be sued.

6. No State Board shall be constituted for a Union territory and in relation to a Union territory, the Central Board shall exercise the powers and perform the functions of a State Board under this Act for that Union territory:

Provided that in relation to any Union territory the Central Board may delegate all or any of its powers and functions*** under this section to such person or body of persons as the Central Government may specify.

7. (1) Save as otherwise provided by or under this Act, a member of a State Board constituted under this Act, other than the member-secretary, shall hold office for a term of three years from the date on which his nomination is notified in the Official Gazette:

Provided that a member shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.

(2) The term of office of a member of a State Board constituted under this Act and nominated under clause (b) or clause (e) of sub-section (2) of section 5 shall come to an end as soon as he ceases to hold the office under the State Government or, as the case may be, the company or corporation owned, controlled or managed by the State Government, by virtue of which he was nominated.

*(3) A member of a State Board constituted under this Act, other than the member-secretary, may at any time resign his office by writing under his hand addressed—

(a) in the case of the Chairman, to the State Government; and

Central Board to exercise the powers and perform the functions of a State Board in the Union territories.

Terms and conditions of service of members.

(b) in any other case, to the Chairman of the State Board, and the seat of the Chairman or such other member shall thereupon become vacant.

(4) A member of a State Board constituted under this Act, other than the member-secretary, shall be deemed to have vacated his seat, if he is absent without reason, sufficient in the opinion of the State Board from three consecutive meetings of the State Board or where he is nominated under clause (c) of sub-section (2) of section 5, he ceases to be a member of the local authority and such vacation of seat shall, in either case, take effect from such date as the State Government may, by notification in the Official Gazette, specify.

(5) A casual vacancy in a State Board constituted under this Act shall be filled by a fresh nomination and the person nominated to fill the vacancy shall hold office only for the remainder of the term for which the member whose place he takes was nominated.

(6) A member of a State Board constituted under this Act shall be eligible for re-nomination but not for more than two terms.

(7) The other terms and conditions of service of the Chairman and other members (except the member-secretary) of a State Board constituted under this Act shall be such as may be prescribed.

* * * * *

8. (1) No person shall be a member of a State Board constituted under this Act, who— Disqualifications.

(a) is, or at any time has been, adjudged insolvent * * *, or

(b) is of unsound mind and has been so declared by a competent court, or

(c) is, or has been, convicted of an offence which, in the opinion of the State Government, involves moral turpitude, or

(d) is, or at any time has been, convicted of an offence under this Act, or

(e) has directly or indirectly by himself or by any partner, any share or interest in any firm or company carrying on the business of manufacture, sale, or hire of machinery, industrial plant, control equipment or any other apparatus for the improvement of the quality of air or for the prevention, control or abatement of air pollution, or

(f) is a director or a secretary, manager or other salaried officer or employee of any company or firm having any contract with the Board, or with the Government constituting the Board or with a local authority in the State, or with a company or corporation owned, controlled or managed by the Government, for the carrying out of programmes for the improvement of the quality of air or for the prevention, control or abatement of air pollution, or

(g) has so abused, in the opinion of the State Government, his position as a member, as to render his continuance on the State Board detrimental to the interests of the general public.

(2) The State Government shall, by order in writing, remove any member who is, or has become, subject to any disqualification mentioned in sub-section (1):

Provided that no order of removal shall be made by the State Government under this section unless the member concerned has been given a reasonable opportunity of showing cause against the same.

(3) Notwithstanding anything contained in sub-section (1), or sub-section (6) of section 7, a member who has been removed under this section shall not be eligible to continue to hold office until his successor enters upon his office, or, as the case may be, for re-nomination as a member.

Vacation of seats by members.

9. If a member of a State Board constituted under this Act becomes subject to any of the disqualifications specified in section 8, his seat shall become vacant.

Meetings of Board.

10. (1) For the purposes of this Act, a Board shall meet at least once in every three months and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed:

Provided that if, in the opinion of the Chairman, any business of an urgent nature is to be transacted, he may convene a meeting of the Board at such time as he thinks fit for the aforesaid purpose.

(2) Copies of the minutes of the meetings under sub-section (1) shall be forwarded to the Central Board and to the State Government concerned.

Constitution of committees.

11. (1) A Board may constitute as many committees consisting wholly of members * * * or partly of members and partly of other persons and for such purpose or purposes as it may think fit.

(2) A committee constituted under this section shall meet at such time and at such place, and shall observe such rules of procedure in regard to the transaction of business at its meetings, as may be prescribed.

(3) The members of a committee other than the members of the Board shall be paid such fees and allowances, for attending its meetings and for attending to any other work of the Board as may be prescribed.

Temporary association of persons with Board.

12. (1) A Board may associate with itself in such manner, and for such purposes, as may be prescribed, any person whose assistance or advice it may desire to obtain in performing any of its functions under this Act.

(2) A person associated with the Board under sub-section (1) for any purpose shall have a right to take part in the discussions of the Board relevant to that purpose, but shall not have a right to vote at a meeting of the Board and shall not be a member of the Board for any other purpose.

(3) A person associated with a Board under sub-section (1) shall be entitled to receive such fees and allowances as may be prescribed.

13. No act or proceeding of a Board or any committee thereof shall be called in question on the ground merely of the existence of any vacancy in, or any defect in the constitution of, the Board or such committee, as the case may be.

Vacancy
In Board
not to
invalidate
acts or
proceed-
ings.

14. (1) The terms and conditions of service of the member-secretary of a State Board constituted under this Act shall be such as may be prescribed.

Member-
secretary
and offi-
cers and
other em-
ployees
of State
Boards.

(2) The member-secretary of a State Board, whether constituted under this Act or not, shall exercise such powers and perform such duties as may be prescribed.

(3) Subject to such rules as may be made by the State Government in this behalf, a State Board, whether constituted under this Act or not, may appoint such officers and other employees as it considers necessary for the efficient performance of its functions under this Act.

(4) The method of appointment, the conditions of service and the scales of pay of the officers (other than the member-secretary) and other employees of a State Board appointed under sub-section (3) shall be such as may be determined by regulations made by the State Board under this Act.

(5) Subject to such conditions as may be prescribed, a State Board constituted under this Act may from time to time appoint any qualified person to be a consultant to the Board and pay him such salary and allowances or fees, as it thinks fit.

15. A State Board may, by general or special order, delegate to the Chairman or the member-secretary or any other officer of the Board subject to such conditions and limitations, if any, as may be specified in the order, such of its powers and functions under this Act as it may deem necessary.

Delega-
tion of
powers.

CHAPTER III

POWERS AND FUNCTIONS OF BOARDS

6 of 1974.

16. (1) Subject to the provisions of this Act, and without prejudice to the performance of its functions under the Water (Prevention and Control of Pollution) Act, 1974, the main functions of the Central Board shall be to improve the quality of air and to prevent, control or abate air pollution in the country.

Functions
of Central
Board.

(2) In particular and without prejudice to the generality of the foregoing functions the Central Board may * * * *

(a) advise the Central Government on any matter concerning the improvement of the quality of air and the prevention, control or abatement of air pollution;

(b) plan and cause to be executed a nation-wide programme for the prevention, control or abatement of air pollution;

(c) co-ordinate the activities of the State Boards and resolve disputes among them;

- (d) provide technical assistance and guidance to the State Boards, carry out and sponsor investigations and research relating to problems of air pollution and prevention, control or abatement of air pollution;
- (e) plan and organise the training of persons engaged or to be engaged in programmes for the prevention, control or abatement of air pollution on such terms and conditions as the Central Board may specify;
- (f) organise through mass media a comprehensive programme regarding the prevention, control or abatement of air pollution;
- (g) collect, compile and publish technical and statistical data relating to air pollution and the measures devised for its effective prevention, control or abatement and prepare manuals, codes or guides relating to prevention, control or abatement of air pollution;
- (h) * lay down standards for the quality of air;
- (i) collect and disseminate information in respect of matters relating to air pollution;
- (j) perform such other functions as may be prescribed.

(3) The Central Board may establish or recognise a laboratory or laboratories to enable the Central Board to perform its functions under this section efficiently.

(4) The Central Board may—

- (a) delegate any of its functions under this Act generally or specially to any of the committees appointed by it;
- (b) do such other things and perform such other acts as it may think necessary for the proper discharge of its functions and generally for the purpose of carrying into effect the purposes of this Act.

Functions
of State
Boards.

17. (1) Subject to the provisions of this Act, and without prejudice to the performance of its functions, if any, under the Water (Prevention and Control of Pollution) Act, 1974, the functions of a State Board shall be—

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- (a) to plan a comprehensive programme for the prevention, control or abatement of air pollution and to secure the execution thereof;
- (b) to advise the State Government on any matter concerning the prevention, control or abatement of air pollution;
- (c) to collect and disseminate information relating to air pollution;
- (d) to collaborate with the Central Board in organising the training of persons engaged or to be engaged in programmes relating to prevention, control or abatement of air pollution and to organise mass-education programme relating thereto;
- (e) to inspect, at all reasonable times, any control equipment, industrial plant or manufacturing process and to give, by order, such directions to such persons as it may consider necessary to take steps for the prevention, control or abatement of air pollution;

(f) to inspect air pollution control areas at such intervals as it may think necessary, assess the quality of air therein and take steps for the prevention, control or abatement of air pollution in such areas;

(g) to lay down, in consultation with the Central Board and having regard to the standards for the quality of air laid down by the Central Board, standards for emission of air pollutants into the atmosphere from industrial plants and automobiles or for the discharge of any air pollutant into the atmosphere from any other source whatsoever not being a ship or an aircraft:

Provided that different standards for emission may be laid down under this clause for different industrial plants having regard to the quantity and composition of emission of air pollutants into the atmosphere from such industrial plants;

(h) to advise the State Government with respect to the suitability of any premises or location for carrying on any industry which is likely to cause air pollution;

(i) to perform such other functions as may be prescribed or as may, from time to time, be entrusted to it by the Central Board or the State Government;

(j) to do such other things and to perform such other acts as it may think necessary for the proper discharge of its functions and generally for the purpose of carrying into effect the purposes of this Act.

(2) A State Board may establish or recognise a laboratory or laboratories to enable the State Board to perform its functions under this section efficiently.

18. In the performance of its functions under this Act—

(a) the Central Board shall be bound by such directions in writing as the Central Government may give to it; and

(b) every State Board shall be bound by such directions in writing as the Central Board or the State Government may give to it:

Provided that where a direction given by the State Government is inconsistent with the direction given by the Central Board, the matter shall be referred to the Central Government for its decision.

Power to give directions.

CHAPTER IV

PREVENTION AND CONTROL OF AIR POLLUTION

19. (1) The State Government may, after consultation with the State Board, by notification in the Official Gazette, declare in such manner as may be prescribed, any area or areas within the State as air pollution control area or areas for the purposes of this Act.

Power to declare air pollution control areas.

(2) The State Government may, after consultation with the State Board, by notification in the Official Gazette,—

(a) alter any air pollution control area whether by way of extension or reduction;

(b) declare a new air pollution control area in which may be merged one or more existing air pollution control areas or any part or parts thereof.

(3) If the State Government, after consultation with the State Board, is of opinion that the use of any fuel, other than an approved fuel, in any air pollution control area or part thereof, may cause or is likely to cause air pollution, it may, by notification in the Official Gazette, prohibit the use of such fuel in such area or part thereof with effect from such date (being not less than three months from the date of publication of the notification) as may be specified in the notification.

(4) The State Government may, after consultation with the State Board, by notification in the Official Gazette, direct that with effect from such date as may be specified therein, no appliance, other than an approved appliance, shall be used in the premises situated in an air pollution control area:

Provided that different dates may be specified for different parts of an air pollution control area or for the use of different appliances.

(5) If the State Government, after consultation with the State Board, is of opinion that the burning of any material (not being fuel) in any air pollution control area or part thereof may cause or is likely to cause air pollution, it may, by notification in the Official Gazette, prohibit the burning of such material in such area or part thereof.

Power to give instructions for ensuring standards for emission from automobiles.

20. With a view to ensuring that the standards for emission of air pollutants from automobiles laid down by the State Board under clause (g) of sub-section (1) of section 17 are complied with, the State Government shall, in consultation with the State Board, give such instructions as may be deemed necessary to the concerned authority in charge of registration of motor vehicles under the Motor Vehicles Act, 1939, and such authority shall, notwithstanding anything contained in that Act or the rules made thereunder be bound to comply with such instructions.

Restrictions on use of certain industrial plants.

21. (1) Subject to the provisions of this section, no person shall, without the previous consent of the State Board, operate any industrial plant for the purpose of any industry specified in the Schedule in an air pollution control area.

(2) An application for consent of the State Board under sub-section (1) shall be accompanied with such fees as may be prescribed and shall be made in the prescribed form and shall contain the particulars of the industrial plant and such other particulars as may be prescribed:

Provided that where any person, immediately before the declaration of any area as an air pollution control area, operates in such area any industrial plant for the purpose of any industry specified in the Schedule, such person shall make the application under this sub-section within such period (being not less than three months from the date of such declaration) as may be prescribed and where such person makes such application, he shall be deemed to be operating such industrial plant with the consent of the State Board until the consent applied for has been refused. * * *

(3) The State Board may make such inquiry as it may deem fit in respect of the application for consent referred to in sub-section (1) and

in making any such inquiry, shall follow such procedure as may be prescribed.

(4) Within a period of four months after the receipt of the application for consent referred to in sub-section (1), the State Board shall, by order in writing, either grant or refuse, for reasons to be recorded in the order, the consent applied for.

(5) Every person to whom * consent has been granted by the State Board * * * under sub-section (4), shall comply with the following conditions, namely:—

(i) the control equipment of such specifications as the State Board may approve in this behalf shall be installed and operated in the premises where the industry is carried on or proposed to be carried on;

(ii) the existing control equipment, if any, shall be altered or replaced in accordance with the directions of the State Board;

(iii) the control equipment referred to in clause (i) or clause (ii) shall be kept at all times in good running condition;

(iv) chimney, wherever necessary, of such specifications as the State Board may approve in this behalf shall be erected or re-erected in such premises; * * *.

(v) such other conditions as the State Board may specify in this behalf; and

(vi) the conditions referred to in clause (i), clause (ii) and clause (iv) shall be complied with within such period as the State Board may specify in this behalf:

Provided that in the case of a person operating any industrial plant for the purpose of any industry specified in the Schedule in an air pollution control area immediately before the date of declaration of such area as an air pollution control area, the period so specified shall not be less than six months:

Provided further that—

(a) after the installation of any control equipment in accordance with the specifications under clause (i), or

(b) after the alteration or replacement of any control equipment in accordance with the directions of the State Board under clause (ii), or

(c) after the erection or re-erection of any chimney under clause (iv),

no control equipment or chimney shall be altered or replaced or, as the case may be, erected or re-erected except with the previous approval of the State Board.

(6) If due to any technological improvement or otherwise the State Board is of opinion that all or any of the conditions referred to in sub-section (5) require or requires variation (including the change of any

control equipment, either in whole or in part), the State Board shall, after giving the person to whom consent has been granted * * * an opportunity of being heard, vary all or any of such conditions and thereupon such person shall be bound to comply with the conditions as so varied.

(7) Where a person to whom consent has been granted by the State Board under sub-section (4), transfers his interest in the industry to any other person, such consent shall be deemed to have been granted to such other person and he shall be bound to comply with all the conditions subject to which it was granted as if the consent was granted to him originally.

Persons carrying on industry, etc., not to allow emission of air pollutants in excess of the standards laid down by the State Board.

Furnishing of information to the State Board and other agencies in certain cases.

Power of entry and inspection.

22. No person carrying on any industry specified in the Schedule or operating any industrial plant, in any air pollution control area shall discharge or cause or permit to be discharged the emission of any air pollutant in excess of the standards laid down by the State Board under clause (g) of sub-section (1) of section 17.

23. (1) Where in any air pollution control area the emission of any air pollutant into the atmosphere in excess of the standards laid down by the State Board occurs or is apprehended to occur due to accident or other unforeseen act or event, the person in charge of the premises from where such emission occurs or is apprehended to occur shall forthwith intimate the fact of such occurrence or the apprehension of such occurrence to the State Board and to such authorities or agencies as may be prescribed.

(2) On receipt of information with respect to the fact or the apprehension of any occurrence of the nature referred to in sub-section (1), whether through intimation under that sub-section or otherwise, the State Board and the authorities or agencies shall, as early as practicable, take such remedial measures as are necessary to mitigate the emission of such air pollutants.

(3) Expenses, if any, incurred by the State Board, authority or agency in taking the remedial measures referred to in sub-section (2) together with interest (at such rate, as the State Government may, by order, fix) from the date when a demand for the expenses is made until it is paid, may be recovered by that Board, authority or agency from the person concerned, as arrears of land revenue, or of public demand.

24. (1) Subject to the provisions of this section, any person empowered by a State Board in this behalf shall have a right to enter, at all reasonable times with such assistance as he considers necessary, any place—

(a) for the purpose of performing any of the functions of the State Board entrusted to him;

(b) for the purpose of determining whether and if so in what manner, any such functions are to be performed or whether any provisions of this Act or the rules made thereunder or any notice, order, direction or authorisation served, made, given or granted under this Act is being or has been complied with;

(c) for the purpose of examining and testing any control equipment, industrial plant, record, register, document or any other material object or for conducting a search of any place in which he has reason to believe that an offence under this Act or the rules made thereunder has been or is being or is about to be committed and for seizing any such control equipment, industrial plant, record, register, document or other material object if he has reasons to believe that it may furnish evidence of the commission of an offence punishable under this Act or the rules made thereunder.

(2) Every person carrying on any industry specified in the Schedule and every person operating any control equipment or any industrial plant, in an air pollution control area shall be bound to render all assistance to the person empowered by the State Board under sub-section (1) for carrying out the functions under that sub-section and if he fails to do so without any reasonable cause or excuse, he shall be guilty of an offence under this Act.

(3) If any person wilfully delays or obstructs any person empowered by the State Board under sub-section (1) in the discharge of his duties, he shall be guilty of an offence under this Act.

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(4) The provisions of the Code of Criminal Procedure, 1973, or, in relation to the State of Jammu and Kashmir, or any area in which that code is not in force, the provisions of any corresponding law in force in that State or area, shall, so far as may be, apply to any search or seizure under this section as they apply to any search or seizure made under the authority of a warrant issued under section 94 of the said Code or, as the case may be, under the corresponding provisions of the said law.

25. For the purposes of carrying out the functions entrusted to it, the State Board or any officer empowered by it in that behalf may call for any information (including information regarding the types of air pollutants emitted into the atmosphere and the level of the emission of such air pollutants) from the occupier or any other person carrying on any industry or operating any control equipment or industrial plant and for the purpose of verifying the correctness of such information, the State Board or such officer shall have the right to inspect the premises where such industry, control equipment or industrial plant is being carried on or operated.

Power to obtain information.

26. (1) A State Board or any officer empowered by it in this behalf shall have power to take, for the purpose of analysis, samples of air or emission from any chimney, flue or duct or any other outlet in such manner as may be prescribed.

Power to take samples of air or emission and procedure to be followed in connection therewith.

(2) The result of any analysis of a sample of emission taken under sub-section (1) shall not be admissible in evidence in any legal proceeding unless the provisions of sub-sections (3) and (4) are complied with.

(3) Subject to the provisions of sub-section (4), when a sample of emission is taken for analysis under sub-section (1), the person taking the sample shall—

(a) serve on the occupier or his agent, a notice, then and there, in such form as may be prescribed, of his intention to have it so analysed;

(b) in the presence of the occupier or his agent, collect a sample of emission for analysis; * * *

(c) cause the sample to be placed in a container or containers which shall be marked and sealed and shall also be signed both by the person taking the sample and the occupier or his agent;

(d) send, without delay, the container or containers to the laboratory established or recognised by the State Board under section 17 or, if a request in that behalf is made by the occupier or his agent when the notice is served on him under clause (a), to the laboratory established or specified under sub-section (1) of section 28.

(4) When a sample of emission is taken for analysis under sub-section (1) and the person taking the sample serves on the occupier or his agent, a notice under clause (a) of sub-section (3), then—

(a) in a case where the occupier or his agent wilfully absents himself, the person taking the sample shall collect the sample of emission for analysis to be placed in a container or containers which shall be marked and sealed and shall also be signed by the person taking the sample, and

(b) in a case where the occupier or his agent is present at the time of taking the sample but refuses to sign the marked and sealed container or containers of the sample of emission as required under clause (c) of sub-section (3), the marked and sealed container or containers shall be signed by the person taking the sample,

and the container or containers shall be sent without delay by the person taking the sample for analysis to the laboratory established or specified under sub-section (1) of section 28 and such person shall inform the Government analyst appointed under sub-section (1) of section 29, in writing, about the wilful absence of the occupier or his agent, or, as the case may be, his refusal to sign the container or containers.

* * * * *

Reports
of the
result of
analysis
on sam-
ples
taken
under
section
28.

27. (1) Where a sample of emission has been sent for analysis to the laboratory established or recognised by the State Board, the Board analyst appointed under sub-section (2) of section 29 shall analyse the sample and submit a report in the prescribed form of such analysis in triplicate to the State Board.

(2) On receipt of the report under sub-section (1), one copy of the report shall be sent by the State Board to the occupier or his agent referred to in section 26, another copy shall be preserved for production before the court in case any legal proceedings are taken against him and the other copy shall be kept by the State Board.

(3) Where a sample has been sent for analysis under clause (d) of sub-section (3) or sub-section (4) of section 26 to any laboratory mentioned therein, the Government analyst referred to in the said sub-section (4) shall analyse the sample and submit a report in the prescribed form of the result of the analysis in triplicate to the State Board which shall comply with the provisions of sub-section (2).

* * * * *

(4) Any cost incurred in getting any sample analysed at the request of the occupier or his agent as provided in clause (d) of sub-section (3) of section 26 or when he wilfully absents himself or refuses to sign the marked and sealed container or containers of sample of emission under sub-section (4) of that section, shall be payable by such occupier or his agent and in case of default the same shall be recoverable from him as arrears of land revenue or of public demand.

28. (1) The State Government may, by notification in the Official Gazette,— State Air Laboratory.

(a) establish one or more State Air Laboratories; or

(b) specify one or more laboratories or institutes as State Air Laboratories to carry out the functions entrusted to the State Air Laboratory under this Act.

(2) The State Government may, after consultation with the State Board, make rules prescribing—

(a) the functions of the State Air Laboratory;

(b) the procedure for the submission to the said laboratory of samples of air or emission for analysis or tests, the form of the laboratory's report thereon and the fees payable in respect of such report;

(c) such other matters as may be necessary or expedient to enable that laboratory to carry out its functions.

29. (1) The State Government may, by notification in the Official Gazette, appoint such persons as it thinks fit and having the prescribed qualifications to be Government analysts for the purpose of analysis of samples of air or emission sent for analysis to any laboratory established or specified under sub-section (1) of section 28. Analysts.

(2) Without prejudice to the provisions of section 14, the State Board may, by notification in the Official Gazette, and with the approval of the State Government, appoint such persons as it thinks fit and having the prescribed qualifications to be Board analysts for the purpose of analysis of samples of air or emission sent for analysis to any laboratory established or recognised under section 17.

Reports
of ana-
lysts.

30. Any document purporting to be a report signed by a Government analyst or, as the case may be, a State Board analyst may be used as evidence of the facts stated therein in any proceeding under this Act.

Appeals.

31. (1) Any person aggrieved by an order made by the State Board under this Act may, within thirty days from the date on which the order is communicated to him, prefer an appeal to such authority (hereinafter referred to as the Appellate Authority) as the State Government may think fit to constitute:

Provided that the Appellate Authority may entertain the appeal after the expiry of the said period of thirty days if such authority is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) The Appellate Authority shall consist of a single person or three persons as the State Government may think fit to be appointed by the State Government.

(3) The form and the manner in which an appeal may be preferred under sub-section (1), the fees payable for such appeal and the procedure to be followed by the Appellate Authority shall be such as may be prescribed.

(4) On receipt of an appeal preferred under sub-section (1), the Appellate Authority shall, after giving the appellant and the State Board an opportunity of being heard, dispose of the appeal as expeditiously as possible.

CHAPTER V

FUND, ACCOUNTS AND AUDIT

Contribu-
tions by
Central
Govern-
ment.

32. The Central Government may, after due appropriation made by Parliament by law in this behalf, make in each financial year such contributions to the State Boards as it may think necessary to enable the State Boards to perform their functions under this Act:

Provided that nothing in this section shall apply to any State Board for the prevention and Control of Water Pollution constituted under section 4 of the Water (Prevention and Control of Pollution) Act, 1974 which is empowered by that Act to expend money from its fund thereunder for the purposes of this Act also.

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Fund of
Board.

33. (1) Every State Board shall have its own fund for the purposes of this Act and all sums which may, from time to time, be paid to it by the Central Government and all other receipts (by way of contributions, if any, from the State Government, fees, gifts, grants, donations, benefactions or otherwise) of that Board shall be carried to the fund of the Board and all payments by the Board shall be made therefrom.

(2) Every State Board may expend such sums as it thinks fit for performing its functions under this Act and such sums shall be treated as expenditure payable out of the fund of that Board.

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(3) Nothing in this section shall apply to any State Board for the Prevention and Control of Water Pollution constituted under Section 4 of the Water (Prevention and Control of Pollution) Act, 1974, which is empowered by that Act to expend money from its fund thereunder for the purposes of this Act also.

34. The Central Board or, as the case may be, the State Board shall, during each financial year, prepare, in such form and at such time as may be prescribed, a budget in respect of the financial year next ensuing showing the estimated receipt and expenditure under this Act, and copies thereof shall be forwarded to the Central Government or, as the case may be, the State Government. Budget

35. (1) The Central Board shall, during each financial year, prepare, in such form and at such time as may be prescribed, an annual report giving * * * full account of its activities under this Act during the previous financial year and copies thereof shall be forwarded to the Central Government and that Government shall cause every such report to be laid before both Houses of Parliament within six months of the date on which it is received by that Government. Annual report

(2) Every State Board shall, during each financial year, prepare, in such form and at such time as may be prescribed, an annual report giving * * * full account of its activities under this Act during the previous financial year and copies thereof shall be forwarded to the State Government and that Government shall cause every such report to be laid before the State Legislature within a period of nine months of the date on which it is received by that Government.

36. (1) Every Board shall, in relation to its functions under this Act, maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government or, as the case may be, the State Government. Accounts and audit.

1 of 1956

(2) The accounts of the Board shall be audited by an auditor duly qualified to act as an auditor of companies under section 226 of the Companies Act, 1956.

(3) The said auditor shall be appointed by the Central Government or, as the case may be, the State Government on the advice of the Comptroller and Auditor-General of India.

(4) Every auditor appointed to audit the accounts of the Board under this Act shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Board.

(5) Every such auditor shall send a copy of his report together with an audited copy of the accounts to the Central Government or, as the case may be, the State Government.

(6) The Central Government shall, as soon as may be after the receipt of the audit report under sub-section (5), cause the same to be laid before both Houses of Parliament.

(7) The State Government shall, as soon as may be after the receipt of the audit report under sub-section (5), cause the same to be laid before the State Legislature.

CHAPTER VI

PENALTIES AND PROCEDURE

Failure to comply with the provisions of section 21(5) or section 22 or with orders or directions issued under the Act.

Penalties for certain acts.

Penalty for contravention of certain provisions of the Act.

37. (1) Whoever fails to comply with the provisions of sub-section (5) of section 21 or section 22 or with any order or direction given under this Act shall, in respect of each such failure, be punishable with imprisonment for a term which may extend to three months or with fine which may extend to ten thousand rupees, or with both, and in case the failure continues, with an additional fine which may extend to one hundred rupees for every day during which such failure continues after the conviction for the first such failure.

(2) If the failure referred to in sub-section (1) continues beyond a period of one year after the date of conviction, the offender shall be punishable with imprisonment for a term which may extend to six months.

38. Whoever—

(a) destroys, pulls down, removes, injures or defaces any pillar, post or stake fixed in the ground or any notice or other matter put up, inscribed or placed, by or under the authority of the Board, or

(b) obstructs any person acting under the orders or directions of the Board from exercising his powers and performing his functions under this Act, or

(c) damages any works or property belonging to the Board, or

(d) fails to furnish to the Board or any officer or other employee of the Board any information required by the Board or such officer or other employee for the purpose of this Act, or

(e) fails to intimate the occurrence of the emission of air pollutants into the atmosphere in excess of the standards laid down by the State Board or the apprehension of such occurrence, to the State Board and other prescribed authorities or agencies as required under sub-section (1) of section 23, or

(f) in giving any information which he is required to give under this Act, * * * makes a statement which is false in any material particular, or

(g) for the purpose of obtaining any consent under section 21, * * * makes a statement which is false in any material particular, shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

39. Whoever contravenes any of the provisions of this Act, for which no penalty has been elsewhere provided in this Act, shall be punishable with fine which may extend to five thousand rupees, and in the case of continuing contravention, with an additional fine which may extend to one hundred rupees for every day during which such contravention continues after conviction for the first such contravention.

40. (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was directly in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Offences
by com-
panies.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) “company” means any body corporate, and includes a firm or other association of individuals; and

(b) “director” in relation to a firm means a partner in the firm.

41. (1) Where an offence under this Act has been committed by any Department of Government, the Head of the Department shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Offences
by Gov-
ernment
Depart-
ments.

Provided that nothing contained in this section shall render such Head of the Department liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a Department of Government and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any officer, other than the Head of the Department, such officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

42. No suit or other legal proceedings shall lie against the Government or any officer of the Government or any member or any officer or other employee of the Board in respect of anything which is done or intended to be done in good faith in pursuance of this Act or the rules made thereunder.

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Cogni-
zance of
offences.

43. No court shall take cognizance of any offence under this Act except on a complaint made by, or with the previous sanction in writing of the State Board, and no court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Act.

Members,
officers
and
employees
of Board
to be
public
servants.

44. All the members and all officers and other employees of a Board when acting or purporting to act in pursuance of any of the provisions of this Act or the rules made thereunder shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

Reports
and re-
turns.

45. The Central Board shall, in relation to its functions under this Act, furnish to the Central Government, and a State Board shall, in relation to its functions under this Act, furnish to the State Government and to the Central Board such reports, returns, statistics, accounts and other information as that Government, or, as the case may be, the Central Board may, from time to time, require.

Bar of
jurisdi-
ction.

46. No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which an Appellate Authority constituted under this Act is empowered by or under this Act to determine, and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

CHAPTER VII

MISCELLANEOUS

Power of
State
Govern-
ment to
supersede
State
Board.

47. (1) If at any time the State Government is of opinion—

(a) that a State Board constituted under this Act has persistently made default in the performance of the functions imposed on it by or under this Act, or

(b) that circumstances exist which render it necessary in the public interest so to do,

the State Government may, by notification in the Official Gazette, supersede the State Board for such period, not exceeding six months, as may be specified in the notification:

Provided that before issuing a notification under this sub-section for the reasons mentioned in clause (a), the State Government shall give a reasonable opportunity to the State Board to show cause why it should not be superseded and shall consider the explanations and objections, if any, of the State Board.

(2) Upon the publication of a notification under sub-section (1) superseding the State Board,—

(a) all the members shall, as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, by or under this Act, be exercised, performed or discharged by the State Board shall, until the State Board is reconstituted under sub-section (3), be exercised, performed or discharged by such person or persons as the State Government may direct;

(c) all property owned or controlled by the State Board shall, until the Board is reconstituted under sub-section (3), vest in the State Government.

(3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), the State Government may—

(a) extend the period of supersession for such further term, not exceeding six months, as it may consider necessary; or

(b) reconstitute the State Board by a fresh nomination or appointment, as the case may be, and in such case any person who vacated his office under clause (a) of sub-section (2) shall also be eligible for nomination or appointment:

Provided that the State Government may at any time before the expiration of the period of supersession, whether originally specified under sub-section (1) or as extended under this sub-section, take action under clause (b) of this sub-section.

6 of 1974.

48. Where the Central Board or any State Board constituted under the Water (Prevention and Control of Pollution) Act, 1974 is superseded by the Central Government or the State Government, as the case may be, under that Act, all the powers, functions and duties of the Central Board or such State Board under this Act shall be exercised, performed or discharged during the period of such supersession by the person or persons, exercising, performing or discharging the powers, functions and duties of the Central Board or such State Board under the Water (Prevention and Control of Pollution) Act, 1974, during such period.

Special provision in the case of supersession of the Central Board or the State Boards constituted under the Water (Prevention and Control of Pollution) Act, 1974.

6 of 1974.

49. (1) As and when the Water (Prevention and Control of Pollution) Act, 1974, comes into force in any State and the State Government constitutes a State Board for the Prevention and Control of Water Pollution under that Act, the State Board constituted by the State Government under this Act shall stand dissolved and the Board first-mentioned shall exercise the powers and perform the functions of the Board second-mentioned in that State.

Dissolution of State Boards

Constituted under this act.

(2) On the dissolution of the State Board constituted under this Act,—

(a) all the members shall vacate their offices as such;

(b) all moneys and other property of whatever kind (including the fund of the State Board) owned by, or vested in, the State Board, immediately before such dissolution, shall stand transferred to and vest in the State Board for the Prevention and Control of Water Pollution;

(c) every officer and other employee serving under the State Board immediately before such dissolution, shall be transferred to and become an officer or other employee of the State Board for the Prevention and Control of Water Pollution and hold office by the same tenure and at the same remuneration and on the same terms and conditions of service as he would have held the same if the State Board constituted under this Act had not been dissolved and shall continue to do so unless and until such tenure, remuneration and terms and conditions of service are duly altered by the State Board for the Prevention and Control of Water Pollution:

Provided that the tenure, remuneration and terms and conditions of service of any such officer or other employee shall not be altered to his disadvantage without the previous sanction of the State Government;

(d) all liabilities and obligations of the State Board of whatever kind, immediately before such dissolution shall be deemed to be the liabilities or obligations, as the case may be, of the State Board for the Prevention and Control of Water Pollution and any proceeding or cause of action, pending or existing immediately before such dissolution by or against the State Board constituted under this Act in relation to such liability or obligation may be continued and enforced by or against the State Board for the Prevention and Control of Water Pollution.

Power to amend the Schedule.

50. (1) The Central Government may, of its own motion or on the recommendation of a Board, by notification in the Official Gazette, add to, or omit from, the Schedule any industry or alter the description of any industry and thereupon the Schedule shall be deemed to be amended accordingly.

(2) Every notification made under sub-section (1) shall be laid, as soon as may be after it is made, before each House of Parliament.

**Mainten-
ance of
register.**

51. (1) Every State Board shall maintain a register containing particulars of the persons to whom consent has been granted under section 21, the standards for emission laid down by it in relation to each such consent and such other particulars as may be prescribed.

(2) The register maintained under sub-section (1) shall be open to inspection at all reasonable hours by any person interested in or affected by, such standards for emission or by any other person authorised by such person in this behalf.

Effect of other laws.

52. Save as otherwise provided by or under the Atomic Energy Act, 1962, in relation to radioactive air pollution the provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act.

53. (1) The Central Government may, in consultation with the Central Board, by notification in the Official Gazette, make rules in respect of the following matters namely:—

(a) the intervals and the time and place at which meetings of the Central Board or any committee thereof shall be held and the procedure to be followed at such meetings, including the quorum necessary for the transaction of business thereat, under sub-section (1) of section 10 and under sub-section (2) of section 11;

(b) the fees and allowances to be paid to the members of a committee of the Central Board, not being members of the Board, under sub-section (3) of section 11;

(c) the manner in which and the purposes of which persons may be associated with the Central Board under sub-section (1) of section 12;

(d) the fees and allowances to be paid under sub-section (3) of section 12 to persons associated with the Central Board under sub-section (1) of section 12;

(e) the functions to be performed by the Central Board under clause (j) of sub-section (2) of section 16;

(f) the form in which and the time within which the budget and the annual report of the Central Board may be prepared and forwarded to the Central Government under sections 34 and 35;

(g) the form in which the accounts of the Central Board may be maintained under sub-section (1) of section 36.

(2) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

54. (1) Subject to the provisions of sub-section (3), the State Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act in respect of matters not falling within the purview of section 53.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the terms and conditions of service of the Chairman and other members (other than * * * the member-secretary) of the State Board constituted under this Act under sub-section (7) of section 7;

Power of Central Government to make rules.

Power of State Government to make rules.

(b) the intervals and the time and place at which meetings of the State Board or any Committee thereof shall be held and the procedure to be followed at such meetings, including the quorum necessary for the transaction of Business threat, under sub-section (1) of section 10 and under sub-section (2) of section 11;

(c) the fees and allowances to be paid to the members of a Committee of the State Board, not being members of the Board under sub-section (3) of section 11;

(e) the fees and allowances to be paid under sub-section (3) of section 12 to persons associated with the State Board under sub-section (1) of section 12;

(f) the terms and conditions of service of the member-secretary of the State Board constituted under this Act under sub-section (1) of section 14;

(g) the powers and duties to be exercised and discharged by the member-secretary of a State Board under sub-section (2) of section 14;

(h) the conditions subject to which a State Board may appoint such officers and other employees as it considers necessary for the efficient performance of its functions under sub-section (3) of section 14;

(i) the conditions subject to which a State may appoint a consultant under sub-section (5) of section 14;

(j) the functions to be performed by the State Board under clause (i) of sub-section (1) of section 17;

(k) the manner in which any area or areas may be declared as air pollution control area or areas, under sub-section (1) of section 19;

(l) the form of application for the consent of the State Board, the fees payable therefor, the period within which such application shall be made and the particulars it may contain, under sub-section (2) of section 21;

(m) the procedure to be followed in respect of an inquiry under sub-section (3) of section 21;

(n) the authorities or agencies to whom information under sub-section (1) of section 23 shall be furnished;

(o) the manner in which samples of air or emission may be taken under sub-section (1) of section 26;

(p) the form of the notice referred to in sub-section (3) of section 26;

(q) the form of the report of the State Board analyst under sub-section (1) of section 27;

(r) the form of the report of the Government analyst under sub-section (3) of section 27;

(s) the functions of the State Air Laboratory, the procedure for the submission to the said laboratory of samples of air or emission for analysis or tests, the form of laboratory's report thereon, the fees payable in respect of such report and other matters as may be necessary or expedient to enable that laboratory to carry out its functions, under sub-section (2) of section 28;

(t) the qualifications required for Government analysts under sub-section (1) of section 29;

(u) the qualifications required for State Board analysts under sub-section (2) of section 29;

(v) the form and the manner in which appeals may be preferred, the fees payable in respect of such appeals and the procedure to be followed by the Appellate Authority in disposing of the appeals under sub-section (3) of section 31;

(w) the form in which and the time within which the budget and annual report of the State Board may be prepared and forwarded to the State Government under sections 34 and 35;

(x) the form in which the accounts of the State Board may be maintained under sub-section (1) of section 36;

(y) the particulars which the register maintained under section 51 may contain;

(z) any other matter which has to be, or may be, prescribed.

(3) After the first constitution of the State Board, no rule with respect to any of the matters referred to in sub-section (2) [other than those referred to in clause (a) thereof], shall be made, varied, amended or repealed without consulting that Board.

THE SCHEDULE

(See sections 21, 22, 24 and 50)

1. Iron and Steel Plants.
2. Non-ferrous metal industries.
3. Foundries.
4. Mining and Ore processing industries.
5. Coke Ovens and Coal processing plants.

6. Petroleum and Petro-Chemical industries.
7. Power Plants and Boiler Plants.
8. Chemical and allied industries.
9. Ceramic and Cement (including Asbestos) industries.
10. Textile (including ginning) industries.
11. Processing plants for animal and agricultural products.
12. Plants for recovery from and disposal of wastes including incinerators.
13. Pulp and paper industries.

AVTAR SINGH RIKHY,

Secretary.